

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-361-C - ORDER NO. 2004-228
JUNE 30, 2004

IN RE: Application of Southwestern Bell) ORDER GRANTING
Communications Services, Inc. d/b/a SBC) MOTION FOR
Long Distance for a Certificate of Public) EXPEDITED REVIEW
Convenience and Necessity to Provide Resold) AND APPLICATION FOR
and Facilities-Based Local Exchange) AUTHORITY TO
Telecommunications Services and for) PROVIDE LOCAL
Flexible Regulation of its Local Exchange) EXCHANGE SERVICES
Services.)

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Southwestern Bell Communications Services, Inc. d/b/a SBC Long Distance (“SBC” or the “Company”) requesting the authority to provide local exchange service in South Carolina. SBC is presently certified to provide intrastate interexchange telecommunications services within the State of South Carolina as authorized by this Commission in Order No. 98-45 issued January 26, 1998, in Docket No. 1997-0313-C. Since 1998 the Company has provided interexchange services in South Carolina. By this Application, the Company plans to offer local exchange services to South Carolina customers on a resold and facilities-based basis.

Further, SBC requests that the Commission regulate its local telecommunications services in accordance with the principles and procedures established for flexible regulation in Order No. 98-165 in Docket No. 97-467-C.

The Application of SBC was filed pursuant to S.C. Code Ann. Section 58-9-280, and the Rules and Regulations of the Commission.

The Commission's Executive Director instructed SBC to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

On February 17, 2004, counsel for the SCTC filed with the Commission an executed Stipulation in which SBC stipulated that it would seek authority only in non-rural local exchange ("LEC") service areas of South Carolina and not provide any local service to any customer located in a rural incumbent's service area, unless and until SBC provided written notice of its intent prior to the date of the intended service. SBC also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. SBC agreed to abide by all State and Federal laws and to participate to the extent that SBC may be required to do so by the Commission to support universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to SBC provided the conditions contained in the Stipulation are met.

On February 24, 2004, SBC subsequently filed a Motion for Expedited Review. Along with the Motion, SBC provided the Commission with the Verified Testimony of Mr. Norman W. Descoteaux, SBC's Associate Director - Regulatory, and documentation

evidencing that the Company possesses the financial, operational, and managerial resources required to provide high quality local exchange telecommunications services at competitive rates, terms and conditions.

The Company additionally requested the waiver of certain Commission rules and regulations. Specifically, SBC has requested that the Commission waive its requirement under 26 S.C. Ann. Regs. 103-610 that it be required to maintain its books and records in South Carolina. The Company states that it does not plan to establish offices in South Carolina and that all of the corporate records are maintained at its corporate headquarters in Pleasanton, California. Further, the Company requests that the Commission waive the requirement under 26 S.C. Ann. Regs. 103-631 that it publish and distribute a local directory. The Company states that it will contract with the ILECs to ensure that its customers in South Carolina are included in the applicable directories. Finally, SBC asks that it be permitted to maintain its books and financial records in accordance with Generally Accepted Accounting Practices rather than the Uniform System of Accounts.

FINDINGS OF FACT

1. SBC is organized as a corporation under the laws of the State of Delaware and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State. The Company's corporate headquarters are located in San Antonio, Texas.

2. SBC was authorized to operate as a provider of interexchange telecommunications by this Commission in Docket No. 1997-0313-C and now wishes to expand its services to include local exchange services.

3. The Commission finds that SBC possesses the necessary experience, capability, and financial resources to provide local exchange telecommunications in South Carolina. S.C. Code Ann. Section 58-9-280(B)(1).

4. The Commission finds that SBC will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4).

5. The Commission further finds that SBC will provide communications services that will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

6. The Commission finds that the provision of local exchange service by SBC “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5).

7. Following SBC’s execution of a Stipulation with the SCTC, the SCTC withdrew its opposition to the Application. No further protests or Motions for Intervention were filed in this matter. By SBC’s Motion for Expedited Review, the Applicant has waived its right to be heard under S. C. Code Ann. Sec. 58-9-280.

8. The Commission finds that SBC has shown good cause for the Commission to waive the requirements that the Company maintain its books and records in South Carolina under 26 S.C. Ann. Regs. 103-610, that the Company publish a local directory under 26 S.C. Ann. Regs. 103-631, and that the Company maintain its books and records in accordance with the Uniform System of Accounts.

CONCLUSIONS OF LAW

1. The Commission concludes that SBC possesses the managerial, technical, and financial resources to provide the competitive local exchange telecommunications services as described in its Application.

2. The Commission concludes that SBC's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that SBC will participate in the support of universally available telephone service at affordable rates to the extent that SBC may be required to do so by the Commission.

4. The Commission concludes that SBC will provide services that will meet the service standards of the Commission.

5. The Commission concludes that the provision of local exchange service by SBC will not otherwise adversely impact the public interest.

6. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to SBC to provide competitive intrastate local exchange services only to customers located in the non-rural areas of the state. The terms of the Stipulation between SBC and SCTC are approved, and adopted as a part of this Order. Therefore, any proposal to provide local telecommunications service to rural service areas is subject to the terms of the Stipulation.

7. The Commission concludes SBC's local telecommunications services shall be regulated in accordance with the principles and procedures established for

flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for SBC's competitive local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, SBC's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. SBC's Motion for Expedited Review is granted on the basis of the facts as stated in this Order and on the basis that SBC has previously been found fit to provide telecommunications services in South Carolina (See Order No. 98-45), and the instant Application seeks merely to expand that authority to include local exchange services.

2. A Certificate of Public Convenience and Necessity is granted to SBC to provide competitive local exchange telecommunications services, via resale or on a facilities-based basis.

3. The terms of the Stipulation between SBC and the SCTC are approved and adopted as a part of this Order. The Stipulation is attached as Order Exhibit 1. Any proposal to provide competitive local exchange telecommunications services to rural service areas is subject to the terms of this Stipulation.

4. SBC shall file, prior to offering local exchange services in South Carolina, its final local service tariff with the Commission. SBC's tariff shall conform and comport with South Carolina law in all matters. SBC's local telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for SBC's competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, SBC's local exchange service tariff filings are presumed valid upon filing, subject to the Commission's right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

5. SBC shall be required to comply with Title 23, Chapter 47, South Carolina Code of Laws Ann. which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs SBC to contact the appropriate authorities regarding 911 service in the counties and cities where SBC will be operating. Contact with the appropriate 911 service authorities is to be made

before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. SBC may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, SBC shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

6. The FCC in July of 2000 required all telecommunications carriers throughout the United States to implement three-digit, 711, dialing for access to all Telecommunications Relay Services (TRS). The Commission issued a memorandum in March of 2001 instructing all South Carolina telecommunications carriers to implement the service completely by October of 2001. All competitive local exchange carriers (CLECs) and incumbent local exchange carriers (ILECs) were instructed to include language in their tariffs introducing 711 as a new service offering with deployment by July 1, 2001, and to translate 711 dialed calls to 1-800-735-2905. All Payphone Service Providers (PSPs) were instructed to modify their programmable phones to translate calls dialed as 711 to the assigned TRS toll free number 1-800-735-2905 in order to route 711 calls to the TRS provider before October 2, 2001. Additionally, telephone directories were required to be updated and bill inserts promoting 711 were also required. SBC must comply with the applicable mandates. For complete information on compliance with this

FCC and Commission requirement, go to the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>.

7. SBC is required to file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts report will necessitate the filing of intrastate information. Therefore, SBC shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission's requirements for filing an annual report and a gross receipts report. The form SBC shall use to file its annual financial information with the Commission can be found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>. The form is entitled "Annual Report for Competitive Local Exchange Carriers", and shall be filed with the Commission by April 1st of each year. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled "Gross Receipts Form for Utility Companies" and may also be found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>.

8. Additionally, SBC shall file with the Commission a quarterly report entitled "CLEC Service Quality Quarterly Report." The proper form for this report is found on the Commission's website at <http://www.psc.state.sc.us/reference/forms.asp>.

9. SBC shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

10. For good cause shown, SBC is granted a waiver and is hereby authorized to keep its books and financial records in accordance with Generally Accepted Accounting Practices rather than the Uniform System of Accounts method.

11. For good cause shown, SBC is granted a waiver of the requirements that the Company publish and distribute a directory under S.C. Code Ann. Reg. 103-631 and that it file service area maps with the Commission. SBC is ordered to contact the incumbent ILECs to ensure that the Company's customers are included in the applicable directory.

12. For good cause shown, SBC is granted a waiver of the requirement that it maintain its books and records in South Carolina as required under 26 S.C. Ann. Regs. 103-610. SBC shall maintain its books and records at its corporate headquarters in Pleasanton, California and make such available to the Commission staff or employees upon their request at the Company's expense.

(SEAL)